November 19, 2019

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Via email and U.S. Mail

Re: UC Affiliation with Entities that Impose Religious Restrictions on Health Care

Dear Chancellor Gillman and Chair Steintrager:

As you may be aware, over the past year the UC community was roiled by the proposal for an extensive affiliation between UCSF and Dignity Health that was before the Board of Regents. In May, facing extensive opposition, UCSF dropped the plan. Our organizations publicly expressed our very serious concerns about this deal at the time to UCSF leadership and to the Board of Regents.[1] Dignity Health imposes significant religious restrictions that prohibit the provision of evidence-based, comprehensive reproductive health care and gender-affirming care in its Catholic hospitals, resulting in harmful and discriminatory treatment of patients.

Although UC Irvine was not, to our knowledge, actively involved in the discussion involving the UCSF/Dignity Health affiliation, it was made clear during the debate over the deal that it was intended to serve as a model for affiliations throughout the UC system.

[1] Letter from ACLU of Foundation of Northern California, National Center for Lesbian Rights and National Health Law Program, to Mark Laret, President and CEO, UCSF Health and Sam Hawgood, Chancellor, University of California, San Francisco (Mar. 12, 2019) (on file with author).

When advocating for the affiliation, UC representatives repeatedly asserted that the religious health care directives followed by Dignity Health would not prevent UC providers placed in Dignity Health hospitals from treating patients in accordance with UC's mission and its legal obligations to provide care that is free of bias and religious influence. Documents provided by UC, however, in response to a Public Records Act request, reveal that even at the time of these assertions, UCSF *already had* entered into contracts with Dignity Health that explicitly tie the hands of UC providers and require them to comply with Dignity Health's religious doctrine. This is also true for UC Irvine and for the other UC campuses with medical centers.

We are writing now to draw your attention to this issue. As a campus with a medical center that has in the past entered into a contract restricting its providers' practice of medicine based on religious directives, UC Irvine has an important role to play both with respect to its own affiliations and in the larger UC-wide discussion of this issue. We sincerely hope that, after learning this information, UC Irvine will take a strong stance that such affiliations are problematic. We ask that you refrain from entering into any new arrangements that would subject UC Irvine faculty, staff, trainees, students, or patients to religious restrictions on care.

Background

Catholic hospitals, like those in the Dignity Health network, must follow the Ethical and Religious Directives for Catholic Health Care Services, established by the US Conference of Catholic Bishops.[2] These directives prohibit hospitals from providing a range of reproductive health services and go so far as to characterize them as "intrinsically evil."[3] In addition, the Conference of Catholic Bishops has been very clear that as a religious matter it does not recognize transgender people or the propriety of gender-affirming care.[4] These principles are borne out in the practices of Dignity Health and other Catholic hospitals, resulting in discriminatory denials of care to transgender patients.

In 2018, UCSF proposed to the UC Board of Regents an extensive partnership with Dignity Health that would have channeled UCSF patients into Dignity Health hospitals in the Bay Area and would also have placed UCSF faculty, trainees, and students in those hospitals. This deal was proposed as a model that would extend to other UC campuses in the future. Following extensive protest from within the UC community and from other stakeholders, UCSF abandoned its proposal on May 28, 2019.

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[2] U.S. Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services* (6th ed. 2018), *available at* http://www.usccb.org/about/doctrine/ethical-and-religious-directives/upload/ethical-religious-directives-catholic-health-service-sixth-edition-2016-06.pdf [hereinafter ERDs or religious directives].

[3] ERD No. 70, note 48 at 30.

[4] *See* U.S. Conference of Catholic Bishops et al., Comment Letter on Department of Health and Human Services Proposed Rule on Nondiscrimination in Health Programs and Activities 9 (Nov. 6, 2015), http://www.usccb.org/about/general-counsel/rulemaking/upload/Comments-Proposal-HHS-Reg-Nondiscrimination-Federally-Funded-Health.pdf.

Our organizations jointly wrote to UCSF leadership on March 12, 2019, describing in detail the nature of the Catholic directives and their harmful impact on patients and providers, and raising serious concerns about the legality of the affiliation proposed by UCSF. That letter is included here as an attachment. In March, the ACLU of Northern California also submitted a Public Records Act request to UC in order to determine the nature of any existing affiliations between UC campuses and entities that restrict health care based on religious doctrine.

Existing Contracts Require UC Providers to Comply with Religious Restrictions on Care

In promoting the affiliation with Dignity Health, UC leaders repeatedly asserted that its providers placed at Dignity Health facilities would not be "under a gag rule" and could provide appropriate care to patients. For example, in an email to UCSF colleagues on April 26, 2019, UCSF Health President Mark Laret and UCSF School of Medicine Dean Talmadge King wrote "[J]ust as they do at our facilities, UCSF health care providers will have full latitude to discuss and arrange all appropriate medical services when caring for patients at any Dignity Health facility."[5] And Dana Gossett, Vice Chair of Strategy for UCSF Health, stated at the December 11, 2018 meeting of the California Board of Regents Health Services Committee that, "there's no restriction on counseling on all the contraceptive options that exist currently, or on providing a prescription."[6]

It turns out, however, that even as these assertions were being made, every single UC campus with a medical center had an active or former agreement with a religious health care entity that specifically limited the practice of UC providers at these facilities because of religious doctrine.

Signed in September 2018, a current training agreement between Dignity Health and the UCSF schools of Medicine, Nursing, and Pharmacy contains in its "Compliance with Standards" section a sub-section entitled "Prohibited Procedures," which begins: "School shall not perform and *shall cause each Student and Instructor not to perform* the following procedures in connection with the Field Experience at [Dignity Health] Training Site." (Emphasis added) This text is followed by a list of banned procedures that follows the mandates of the religious directives.[7]

Under the list of "prohibited procedures," students and faculty are barred from providing abortion "even in the case of extrauterine pregnancy," as well as other forms of reproductive health care and compassionate end-of-life services. Not only are they prohibited from providing contraception, they are forbidden even from the "promotion of contraceptive practices." They are also not allowed to perform treatment for victims of sexual assault if the purpose or result is the "removal, destruction or interference with implantation of a fertilized ovum." To ensure

[5] Email from UCSF Health President, Mark Laret and UCSF School of Medicine Dean, Talmadge King to UCSF faculty, (Apr. 26, 2019) (on file with author).
[6] Video, University of California Board of Regents Health Services Committee Meeting (Dec. 11, 2018), available at https://youtu.be/4hzdnJT2zII?t=6156 (accessed Nov. 15, 2019).
[7] Dignity Health and UC Regents obo UCSF School of Medicine, School of Nursing and School of Pharmacy, Educational Training Agreement (Sep. 1, 1018).

compliance, participating students must sign a "Declaration of Responsibilities" stating that they agree to conform to the policies and procedures of the training site.

Another UCSF agreement expressly states that UCSF physicians practicing at Dignity Health facilities shall perform their obligations under the agreement in a manner consistent with the religious directives.[8]

Similarly, UC Irvine School of Medicine entered into a contract with St. Joseph Hospital of Orange, a hospital in the Catholic St. Joseph Health system, for a gynecology oncology fellowship in St. Joseph's Department of Obstetrics and Gynecology. The contract, which took effect June 2016 and expired in May 2019, contains a section entitled "patient care." This section lists the various laws and policies that UC Irvine must adhere to in the affiliation, including "the Ethical and Religious Directives for Catholic Health Care Services."[9]

UC Davis, UCLA, UC Riverside, and UC San Diego have similar contracts that impose religious restrictions on care and, in some instances, require students and faculty to sign agreements stating that they will comply with the policies of the religious institution.[10]

UC May Not Legally Subject its Providers and Patients to Religiously Restricted and Discriminatory Care

As we have previously expressed, any affiliation between UC and Dignity Health that subjects UC providers and patients to Dignity Health's religious restrictions on care violates a range of state and federal laws. Given California's—and UC's—historic leadership in ensuring access to comprehensive reproductive health care and gender-affirming care, however, it is particularly disappointing that UC would put itself in a position so contrary to the values embodied in California law.

As a public university system open to all, a foundational value of the University of California is freedom from religious influence. Indeed, the California Constitution includes language to ensure that UC will not entangle itself in the type of religious restriction on its activities that is manifest in the contracts between the UC campuses and Catholic health care entities. The Constitution states: "[t]he university [of California] shall be entirely independent of all political or sectarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs . . . ."[11]

California also has a long history of passing and interpreting laws that protect individuals' rights to access reproductive health care. Since the early 1980s, our courts have recognized that

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[8] Dignity Health dba St. Mary's Medical Center and UC Regents obo UCSF School of Medicine, Professional Services Agreement, (Feb. 10, 2012).
[9] UC Regents obo UC Irvine School of Medicine and Dignity Health obo St. Joseph Hospital of Orange Department of Obstetrics and Gynecology, Affiliation Agreement, (May 27, 2016).
[10] Public Records Act Request, Responsive Documents (Nov. 15, 2019) (on file with author).
[11] Cal. Const., Art. IX, Sec. 9(e).

abortion is a pregnancy outcome that must be treated by public entities as equal to childbirth in the eyes of the law[12], and California's Reproductive Privacy Act, passed in 2002, declares that it is the public policy of the state that every individual has the fundamental right to choose or refuse birth control and further states: "[t]he state shall not deny or interfere with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion . . . ."[13]

Similarly, California was one of the first states to make clear that our anti-discrimination laws prohibit discrimination based on transgender status. And just last month, a California appellate court found that Evan Minton, an ACLU plaintiff who was denied a gender-affirming hysterectomy at a Catholic Dignity Health hospital, was discriminated against when he was refused this care.[14]

Indeed, the fact that UC campuses entered into the contracts described above puts UC at odds with the legal positions taken by the State of California, which has been a leader in resisting the Trump administration's attempt to increase the ability of health care providers to invoke religion as a basis to discriminate. As the California Attorney General wrote in that case, the rule proposed by the Trump Administration violated the Establishment Clause of the federal constitution because: it elevates the religious beliefs of objectors over the rights, beliefs, and interests of providers and patients; and it coerces religious exercise by requiring providers and patients to act in accordance with the objecting employees' religious beliefs.[15] Under this analysis, the contracts that UC campuses already have with Dignity Health and St. Joseph Health, another Catholic entity, also violate the Establishment Clause.

Patients of Color Are Negatively Affected by Catholic Health Care Restrictions

Proponents of UC affiliation with Dignity Health have asserted that this type of partnership would increase access health care access to and be beneficial for underserved patients. This argument is perplexing, since patients of color, low-income patients, and others who experience systemic barriers to health care access are most in need of quality, comprehensive care, including reproductive health care and bias-free care for LGBTQ people.

Research shows that pregnant women of color are already more likely than white women to give birth at Catholic facilities, meaning they are more likely to receive care that is dictated by religious doctrine rather than evidence-based medicine, which exacerbates existing health disparities.[16] To properly serve these communities, UC should be working to ensure that patients are free from

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[12] *Committee to Defend Reproductive Rights v. Myers*, 29 Cal. 3d 252, 285 (1981).
[13] Cal. Health & Safety Code §§ 1123462)(a) & (c).
[14] *Minton v. Dignity Health*, 39 Cal. App. 5th 1155 (2019).
[15] Pls.' Mot. for Summ. J. at 42, *State of California v. Azar et al.* (N.D. Cal. 2019) (No. 19-2769), ECF No. 113.
[16] Kira Shepherd, Elizabeth Reiner Platt, & Katherine Franke et al., *Bearing Faith: The Limits of Catholic Health Care for Women of Color* (2017), *available at* https://www.law.columbia.edu/sites/default/files/microsites/gender-sexuality/PRPCP/bearingfaith.pdf.

religious restrictions on care, not sending UC patients and providers to Catholic facilities where they cannot obtain or provide comprehensive, patient-centered care.

Care Prohibited Under the Catholic Religious Directives Is Basic Health Care and Cannot Be Isolated from Other Care

Affiliation proponents have also suggested that concerns about the negative impact of the religious directives on UC providers and patients could be eliminated as long as the relationship between UC and Dignity Health does not involve the practice of obstetrics and gynecology. Additionally, UCSF's announcement that it would no longer pursue its previously envisioned affiliation with Dignity Health stated that UCSF was still seeking to find "a viable path forward to help meet patient needs and increase access to crucial health services, including in the areas of adolescent and adult psychiatry, surgical services, primary care and cancer care." [17]

Arguments along these lines fail to consider the extent to which reproductive health care is basic health care, as is gender-affirming care for transgender patients. Cardiology, cancer treatment, pediatrics, primary care, emergency care, and mental health are among the many areas of care that can intersect with the religious directives—as evidenced by a UCSF contract with Dignity Health for cardiology services that includes a paragraph on compliance with the religious directives.[18] Examples of religiously imposed barriers to care include:

- A cardiologist at a Catholic hospital in Colorado was reprimanded for discussing abortion as an option with a pregnant patient who exhibited signs of a disorder that can be highly life-threatening for pregnant people. [19]

- A patient in the first trimester of pregnancy received a diagnosis of brain cancer in a Catholic hospital. She needed chemotherapy that would have been harmful to the fetus, but the hospital refused to allow her to receive an abortion there, disrupting her care. [20]

- A patient with excessive vaginal bleeding due to polycystic ovarian syndrome went to the emergency room of a Catholic hospital. The standard of care is to provide a high dose of contraception in this circumstance, but the physician's assistant in the emergency room would not provide it or a prescription for it or for another drug that was in the same class

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[17] Sam Hawgood, UCSF Chancellor, and Mark Laret, President and CEO, UCSF Health, Questions and Answers (Dignity Health Affiliation) (May 28, 2019).
[18] Professional Services Agreement, *supra* note 8.
[19] Complaint Against Mercy Medical Center, ACLU of Colorado (Nov. 13, 2013), available at http://aclu-co.org/wp-content/uploads/files/2013-11-13%20CDPHE-Rich.pdf.
[20] Lori R. Freedman & Debra B. Stulberg, *Conflicts in Care for Obstetric Complications in Catholic Hospitals,* 4 AJOB Primary Research 1-10 (2013).

as contraception. As a result, the patient bled all weekend, waiting to see her ob-gyn in the office. [21]

- Transgender patients experience significant discrimination and denials of care that are not limited to obstetrics and gynecology. When transgender people experience religiously based refusals of care, or anticipate that they will, this experience can lead them to delay or avoid accessing needed care, including routine preventative care.[22]

Also, it is important to note that the UC Irvine contract with St. Joseph hospital was, in fact, directly situated in the obstetrics and gynecology department of St. Joseph, even though it was an oncology fellowship. UC Irvine fellows working at St. Joseph would have been restricted in the care they could provide to patients with cancer due to the religious directives' prohibitions.

The Religious Directives Apply to the Entire Facility and All Employees

It has similarly been argued by affiliation proponents that, if UC could forge an agreement in which the religious directives did not apply to UC faculty practicing at Dignity Health or other religiously restrictive facilities, concerns about the affiliation would be moot. The idea that such an agreement could be made is belied by the religious directives themselves, which specifically state that, under any affiliation, Catholic facilities may not be made available for "immoral procedures" regardless of who provides them.

But, beyond that, this argument neglects to consider all the other points at which a UC patient sent to a Dignity Health hospital could experience religious restrictions on care. For example, even if a UC student or instructor at a Dignity Health or other Catholic hospital were allowed to "promote contraceptives," other staff at the hospital would not be permitted to note that in the patient's medical record, provide referral information, or otherwise fully participate in the care of that patient. Religious directive 73 states in full: "Before affiliating with a health care entity that permits immoral procedures, a Catholic institution must ensure that neither its administrators nor its employees will manage, carry out, assist in carrying out, make its facilities available for, make referrals for, or benefit from the revenue generated by immoral procedures."

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In summary, religious directives apply throughout Catholic hospitals, and it is not possible to position either UC providers or UC patients in these hospitals without the risk that they will be subject to religious restrictions on care that are counter to UC's mission and values, as well as violative of the law governing UC as a public institution.

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[21] Lori R. Freedman, Molly Battistelli, & Sara Magnusson. Presentation at the North American Forum on Family Planning Scientific Abstracts Chicago, Illinois: Patient Experiences with and Perspectives on Catholic Healthcare (Nov. 15, 2015).

[22] Dr. Seth Pardo Decl. at 4, *State of California v. Azar et al.* (N.D. Cal. 2019) (No. 19-2769), ECF No. 92.

We are aware that UC President Napolitano has created a committee to propose guidelines for affiliations between UC campuses and private medical entities. While we look forward to hearing the outcome of this committee, we felt it was important to express our renewed concerns directly to you at this time.

Please direct future communications to Phyllida Burlingame, Reproductive Justice and Gender Equity Director at the ACLU Foundation of Northern California, via pburlingame@aclunc.org. We look forward to your reply.

Sincerely,

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ACLU Foundation of Northern California

Julie Wilensky
Senior Staff Attorney
National Center for Lesbian Rights

Susan Berke Fogel, JD
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CC: University of California Board of Regents via regentsoffice@ucop.edu
University of California Office of the President via president@ucop.edu

Encl: March 12, 2019 letter from ACLU of Northern California, National Health Law Program, and National Center for Lesbian Rights (1)
Affiliation Agreement between UC Regents obo UC Irvine School of Medicine and Dignity Health obo St. Joseph Hospital of Orange Department of Obstetrics and Gynecology (May 27, 2016). (2)

March 12, 2019

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Via email and U.S. Mail

Re: UCSF partnership with Dignity Health

Dear Mr. Laret and Chancellor Hawgood:

We are writing on behalf of the ACLU of Northern California, the National Center for Lesbian Rights, and the National Health Law Program to express our very serious concerns about UCSF partnering with Dignity Health. In 2017, UCSF Health announced a formal affiliation with several Dignity Health hospitals in the Bay Area, and we understand from information presented by UCSF at the University of California Regents Health Services Committee (the "Committee") meeting on December 11, 2018, that plans are underway to expand this partnership beyond the Bay Area, perhaps throughout the University of California system.

UCSF has publicized this partnership as a strategic alliance of two distinguished and long-serving Bay Area providers recognized for clinical excellence and missions to provide affordable care to all.[1] However, Dignity Health, along with other Catholic health care entities, imposes significant religious restrictions on the care it permits in its facilities. These restrictions lead to discriminatory

[1] Kristen Bole, UCSF News Center, *Dignity Health, UCSF Health Announce Bay Area Collaboration, Plans Build on Shared Mission to Provide Quality Care for All*, https://www.ucsf.edu/news/2017/08/407996/dignity-health-ucsf-health-announce-bay-area-collaboration (last visited Jan. 29, 2019).

treatment of transgender patients and women and to denials of care that have put patients' health and lives at risk. We are seriously concerned that, by partnering with an inherently discriminatory institution, UCSF is failing to meet both its legal obligations as a public entity in California and its professed values of evidence-based, inclusive, and comprehensive patient-centered care.

I. Catholic Health Care Restrictions and their Impact on Patients and Providers

All Catholic health care, including Dignity Health's Catholic hospitals, must adhere to policy proscriptions issued by the United States Conference of Catholic Bishops (the "Conference of Catholic Bishops"), some of which are spelled out in the Ethical and Religious Directives for Catholic Health Care Services (the "ERDs").[2] Catholic health care entities are explicitly prohibited from providing a range of reproductive health services, including contraception, sterilization, and abortion; the ERDs go so far as to characterize these procedures as "intrinsically evil."[3] Further, the Conference of Catholic Bishops mandates that religion take precedence over patient decision-making and autonomy by expressly stating in the ERDs that "the free and informed health care decision of the person . . . is to be followed so long as it does not contradict Catholic principles."[4] Thus, the ultimate authority over Catholic health care is not medical, but religious.

Gender-Affirming Care for Transgender Patients Is Prohibited in Catholic Hospitals

The Conference of Catholic Bishops has been very clear that as a religious matter it does not recognize transgender people or the propriety of gender-affirming care. In comments submitted to the U.S. Department of Health and Human Services in 2015, the Conference of Catholic Bishops explained as follows:

> [W]e believe . . . that medical and surgical interventions that attempt to alter one's sex are, in fact, detrimental to patients. Such interventions are not properly viewed as health care because they do not cure or prevent disease or illness. Rather they reject a person's nature at birth as male or female.[5]

In the same set of comments, the Conference of Catholic Bishops also stated the following:

> "Sex change" is biologically impossible. People who undergo sex reassignment surgery do not change from men to women or vice versa. . . . Claiming that this is a civil-rights matter and encouraging surgical intervention is in reality to collaborate with and promote a mental disorder.[6]

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[2] U.S. Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services* (6th ed. 2018), *available at* http://www.usccb.org/about/doctrine/ethical-and-religious-directives/upload/ethical-religious-directives-catholic-health-service-sixth-edition-2016-06.pdf [hereinafter ERDs].

[3] ERD No. 70, note 48 at 30.

[4] ERD No. 28 at 14.

[5] U.S. Conference of Catholic Bishops et al., Comment Letter on Department of Health and Human Services Proposed Rule on Nondiscrimination in Health Programs and Activities 9 (Nov. 6, 2015), http://www.usccb.org/about/general-counsel/rulemaking/upload/Comments-Proposal-HHS-Reg-Nondiscrimination-Federally-Funded-Health.pdf.

[6] *Id*.

Similar anti-transgender material is posted on the Conference of Catholic Bishops website,[7] as well as collected on the website for the National Catholic Bioethics Center. [8]

These principles are borne out in the practices of Catholic hospitals—including Dignity Health hospitals—which deny transgender people gender-affirming care. The ACLU's representation of Evan Minton,[9] a transgender man, illustrates this problem. Mr. Minton sought a hysterectomy to increase alignment between his body and male gender identity at Dignity Health's Mercy San Juan Medical Center ("Mercy San Juan"). Though Mr. Minton's physician and other Mercy San Juan physicians regularly perform hysterectomies for cisgender female patients, Mr. Minton's procedure was abruptly canceled the day before the procedure was set to take place once the hospital learned the procedure was part of his gender-affirming care.[10]

Patients Are Denied Proper Miscarriage Management at Catholic Hospitals

Catholic health care has an absolute prohibition on abortion, even when a pregnant person's health is jeopardized by the pregnancy.[11] Additionally, the ERDs' broad definition of abortion[12] leads Catholic hospitals to ban the safest method for terminating an ectopic pregnancy and to consider the evacuation of a uterus during a miscarriage to be an abortion if there is still a fetal heartbeat. Emergency situations are ostensibly addressed by ERD 47, which states that medical treatments that terminate a pregnancy are permitted when their direct purpose is the "cure of a proportionately serious pathological condition of a pregnant woman" and when the treatments "cannot be safely postponed until the unborn child is viable."[13] However, beyond the inescapable core issue that, at a moment of emotional and physical trauma for the pregnant person, decisions about medical care are being made based on religious principles rather than by the patient in consultation with a medical provider, there are two serious problems with this supposed safeguard.

First, patients must be exhibiting a "proportionately serious" medical condition in order to demonstrate that the completion of a miscarriage is justified under the ERDs. In other words, for a Catholic hospital to allow a physician to provide care that will end the pregnancy, a patient must already be experiencing medical problems such as infection that put their life at risk, even if it is clear that the pregnancy is non-viable and that earlier action could prevent the infection from occurring in the first place. A qualitative study of obstetricians and gynecologists practicing at Catholic hospitals quotes Dr. R, who explained that he and colleagues "often tell patients that we can't do anything in the hospital but watch you get infected." He goes on to say, "it's just very difficult for them, they're

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[7] *See, e.g.*, U.S. Conference of Catholic Bishops, *Created Male and Female: An Open Letter from Religious Leaders* (Dec. 15, 2017), http://www.usccb.org/issues-and-action/marriage-and-family/marriage/promotion-and-defense-of-marriage/created-male-and-female.cfm.

[8] *See* National Catholic Bioethics Center, *Bioethics Topics – Transgender*, https://www.ncbcenter.org/resources/information-topic/gender-identity/ (last visited Mar. 6, 2019).

[9] ACLU of Northern California, *Minton v. Dignity Health (Sex Discrimination)*, https://www.aclunc.org/our-work/legal-docket/minton-v-dignity-health-sex-discrimination (last visited Mar. 8, 2019).

[10] It is our understanding that because as a matter of religious belief Catholic hospitals do not recognize gender affirming care, they view hysterectomies sought by transgender people as "direct sterilization" in violation of Ethical and Religious Directive No. 53.

[11] ERD No. 45 at 18.

[12] *Id.* ("Every procedure whose sole immediate effect is the termination of pregnancy before viability is an abortion, which, in its moral context, includes the interval between conception and implantation of the embryo.")

[13] ERD No. 47 at 19.

already in a hard place . . . we actually have the patients discharge themselves . . . drive themselves and then admit themselves to the next institution."[14] A policy dictating that patients experiencing miscarriage must first get infected and then be treated, rather than treating them before infection sets in, runs counter to appropriate medical practice and patient-centered care.

Second, the interpretation of ERD 47 varies widely among hospitals and leads to confusion among health care providers as to when it is theologically justified to provide emergency care that terminates a pregnancy.[15] The Catholic policy's lack of clarity, as well as its requirement that providers deviate from the standard practice of medicine, can lead to horrible patient outcomes. For example, Tamesha Means,[16] a Michigan woman, was denied medically appropriate care by a Catholic hospital after her water broke when she was 18 weeks pregnant, pre-viability. Despite increasing signs of infection, the hospital did not inform Ms. Means that there was almost no chance that she could give birth to a healthy baby and did not present her with the option of ending the pregnancy, even though that would have been the safest course of action. Instead, the hospital twice sent her home with Tylenol and would have done so a third time if Ms. Means had not gone into labor while at the hospital. The baby died within hours of delivery.

Contraception and Assisted Reproductive Technologies Are Prohibited in Catholic Health Care Facilities

Policies established by the Conference of Catholic Bishops explicitly prohibit Catholic health care entities from providing contraception to patients.[17] This negatively affects patients who are unable to obtain a postpartum tubal ligation after giving birth at a Catholic hospital. Tubal ligations are the family planning method of choice for 30.2% of U.S. married women of reproductive age,[18] and the American Congress of Obstetricians and Gynecologists (ACOG) has said: "Given the consequences of a missed procedure and the limited time frame in which it may be performed, postpartum sterilization should be considered an urgent surgical procedure."[19]

Patients who give birth in Dignity Health's Catholic hospitals, such as ACLU client Rebecca Chamorro,[20] are denied access to tubal ligation. Ms. Chamorro sought and was denied a tubal ligation immediately following her C-section delivery at Dignity Health's Mercy Medical Center Redding (MMCR), the only hospital within a 70-mile radius that has a labor and delivery ward. While Dignity Health's Catholic hospitals do provide postpartum tubal ligations to some patients, the ultimate decision of whether to approve a doctor's application to perform a tubal ligation on a

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[14] Lori R. Freedman &Debra B. Stulberg, *Conflicts in Care for Obstetric Complications in Catholic Hospitals,* 4 AJOB Primary Research 1-10 (2013).
[15] *Id.* at 4.
[16] *Means v. United States Conference of Catholic Bishops*, 836 F.3d 643 (6th Cir. 2016).
[17] "Catholic health institutions may not promote or condone contraceptive practices but should provide, for married couples and the medical staff who counsel them, instruction both about the Church's teaching on responsible parenthood and in methods of natural family planning." ERD No. 52 at 19.
[18] Jo Jones, William Mosher, & Kimberly Daniels, *Current Contraceptive Use in the United States, 2006 – 2010, and Changes in Patterns of Use Since 1995*, 60 National Health Statistics Report 17, 1-25 (2012).
[19] American College of Obstetricians and Gynecologists, *Access to Postpartum Sterilization*, 120 Obstet. Gynecol. 212, 213 (2012).
[20] ACLU of Northern California, *Chamorro v. Dignity Health (Religious Refusals*), https://www.aclunc.org/our-work/legal-docket/chamorro-v-dignity-health-religious-refusals (last visited Mar. 8, 2019).

patient is made by a staff member charged with enforcement of the ERDs, rather than by a medical professional.

Catholic healthcare's ban on contraception also harms patients who might need emergency contraception due to a missed or failed method, since Catholic health care permits emergency contraception only in cases of rape and, even then, only under certain circumstances.[21] The ban additionally disrupts the contraceptive method of inpatients at a Catholic hospital who are not able to access contraception during that period.

At the December 2018 Committee meeting, UCSF representatives offered Committee members reassurance that lack of access to contraception would not be a problem in the Dignity Health hospitals partnering with UCSF. Dr. Dana Gossett, division director of obstetrics and gynecology at UCSF and Vice Chair of UCSF Health Regional Women's Health Strategy, mentioned a "work-around" in which many patients at St. Mary's have "menstrual disorders," for which Catholic health care permits contraception to be prescribed.[22] This begs the question of why UCSF, a leading medical institution, would sanction this type of misdiagnosis. Beyond that, pharmacies in Catholic hospitals do not typically stock contraception,[23] causing us to wonder whether access to contraception at St. Mary's would actually be possible in the way described by Dr. Gossett.

If St. Mary's or other Catholic Dignity Health hospitals did knowingly provide birth control to patients for contraceptive purposes, this would violate the Conference of Catholic Bishop's policies governing Catholic health care. Dignity Health has stated clearly that it intends to adhere to these directives. According to Dignity Health's counsel, "a Catholic hospital risks the Bishop's revocation of its Catholic status under Canon Law if it does not comply with the ERDs."[24]

Finally, Catholic health care prohibits in vitro fertilization and other assisted reproductive technologies (ART). The ERDs state that "[r]eproductive technologies that substitute for the marriage act are not consistent with human dignity."[25] This position, while harmful for all couples experiencing infertility, has an especially problematic impact on same-sex couples who, as a group, rely on ART to conceive.

"Transparency" Does Not Mitigate Harm to Patients

At the Committee meeting, UCSF representatives acknowledged that patients would be denied care at Dignity Health hospitals. They asserted that the "transparency" of telling patients about these denials is of primary importance, suggesting that this would alleviate the problem of referring UCSF patients to Dignity Health hospitals. However, patients like Evan Minton have a right to care that is free of discrimination. By informing these patients that they will be denied care at Dignity Health hospitals, UCSF does not reduce the discrimination the patients are facing. Instead, UCSF supports the continuation of a discriminatory practice and the demeaning treatment

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[21] ERD No. 36 at 15.

[22] Video, University of California Board of Regents Health Services Committee Meeting (Dec. 11, 2018), *available at* https://youtu.be/4hzdnJT2zII?t=6156 (accessed Mar. 6, 2019).

[23] Debra B. Stulberg, Rebecca A. Jackson, & Lori R. Freedman, *Referrals for Services Prohibited in Catholic Health Care Facilities*, 48 Perspectives on Sexual and Reproductive Health 111-117 (2013).

[24] Defs. Opp'n to Ex Parte Appl. for TRO at 4, 20-21, *Chamorro v. Dignity Health*, Cal. Super. Ct. (2016) (No. 15-549626).

[25] ERDs at 16.

of patients who are seeking care, resulting in a "stigma inconsistent with the history and dynamics of civil rights laws that ensure equal access to goods, services, and public accommodations." *Masterpiece Cakeshop, Ltd. v. Colo. Civil Rights Comm'n*, 138 S. Ct. 1719, 1727 (2018). Indeed, UCSF's position is akin to saying that it is acceptable for a Dignity Health hospital to discriminate as long as it has a sign out front saying, "No transgender people allowed."

Similarly, the transfer or referral of denied patients to a different hospital creates a work-around that allows discrimination to flourish. Indeed, during a hearing in Mr. Minton's case, the judge compared the fact that Dignity Health ultimately allowed Mr. Minton to receive care in one of its secular hospitals to *Plessy v. Ferguson*, stating, "It has a smell of 'separate but equal,' which as we know was abandoned in 1954."[26]

Providers at Catholic Hospital Experience Ethical Conflicts

Though the ERDs bar the promotion of contraceptive practices and warn about the "danger of scandal" in mere association with abortion providers, UCSF representatives expressed at the Committee meeting that there is "no gag rule" that would prohibit or limit UCSF or Dignity Health providers from discussing abortion or other barred services.[27] Yet in 2013, Michael A. Demos, a cardiologist practicing at a Catholic hospital in Colorado, was reprimanded for discussing abortion as an option with a pregnant patient who exhibited signs of a disorder that can be highly life-threatening for pregnant people. The hospital's chief medical officer told Dr. Demos that, pursuant to the ERDs, he was not allowed to recommend or discuss the possibility of pregnancy termination with patients, regardless of the circumstances.[28]

Dr. Demos is not the only medical provider whose professional obligations toward patients have been disrupted by Catholic health care's proscriptions on care. Indeed, research has shown that providers at Catholic facilities are torn between the religious ethics of their employers and the patient centered-obligation of their profession.[29] In a national survey of obstetricians and gynecologists (OB-GYNs) in the U.S., 52% of those working in Catholic institutions reported a conflict with the institution over religiously-based policies.[30]

In California, the California Medical Association (CMA) has expressed concern that Dignity Health is imposing non-medical criteria that countermand physicians' medical judgment and prevent them from providing the standard of care for their patients.[31] Citing the American Medical Association's Code of Medical Ethics Opinion regarding the patient-physician relationship, CMA

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[26] Transcript of Record at 5, 12-14, *Minton v. Dignity Health*, Cal. Super. Ct. (2017) (No. 17-558259).

[27] Video, University of California Board of Regents Health Services Committee Meeting (Dec. 11, 2018), *available at* https://youtu.be/4hzdnJT2zII?t=6156 (accessed Mar. 6, 2019).

[28] Complaint Against Mercy Medical Center, ACLU of Colorado (Nov. 13, 2013), available at http://aclu-co.org/wp-content/uploads/files/2013-11-13%20CDPHE-Rich.pdf.

[29] UCSF Bixby Center for Global Reproductive Health, *How Do Catholic Hospitals Handle Reproductive Health Referrals?*, https://bixbycenter.ucsf.edu/news/how-do-catholic-hospitals-handle-reproductive-health-referrals (last visited Feb. 12, 2019).

[30] Debra B. Stulberg, Annie M. Dude, & Irma Dahlquist et al. *Obstetrician-Gynecologists, Religious Institutions, and Conflicts Regarding Patient-Care Policies*. 207 AM. J. OBSTET. GYNECOL. 73.E1 - 73.E5 (2012).

[31] Mem. of P. & A. in Supp. of Pl. Mot. for Leave to File Compl. at 9, 20-21, *Chamorro v. Dignity Health*, Cal. Super. Ct. (2016) (No. 15-549626).

has also expressed that enforcement of the ERDs can impede physicians' ethical obligations to place patients' welfare above their own and other groups' interests.[32]

Dignity Health Follows the Proscriptions of Catholic Health Care

As was discussed at the Committee meeting, Dignity Health currently comprises Catholic hospitals that adhere to the ERDs and other hospitals that adhere to the Statement of Common Values[33]; hospitals in the latter group prohibit abortion but permit contraception. Of those that are part of the existing UCSF partnership, the Catholic hospitals are St. Mary's and Dominican, while the Statement of Common Values hospitals are St. Francis and Sequoia. During the meeting, Dr. Gossett emphasized the lesser restrictions at the non-Catholic hospitals, stating that St. Francis has no restrictions on tubal ligations and has a transgender health center.

However, in 2018, the Conference of Catholic Bishops issued an update to the ERDs that changes the landscape of Catholic health care systems. The new ERDs state that hospitals coming under a Catholic institution through acquisition, governance or management "must be operated in full accord with the moral teaching of the Catholic Church, including these Directives."[34] In its approval of the recent merger between Dignity Health and Catholic Health Initiatives, the California Attorney General set a condition that existing reproductive health services must be maintained throughout the merged entity in California for five years; we are concerned, however, that after that time, Dignity Health will bring all of its hospitals under the ERDs, as prescribed by the Conference of Catholic Bishops, thus abolishing the lower level of restriction touted by UCSF administrators at the Committee meeting.

The new ERDs similarly address partnerships with secular hospitals:

> Before affiliating with a health care entity that permits immoral procedures, a Catholic institution must ensure that neither its administrators nor its employees will manage, carry out, assist in carrying out, make its facilities available for, make referrals for, or benefit from the revenue generated by immoral procedures. [35]

This statement stands in contrast to comments made at the Committee meeting that, due to the partnership with UCSF, patients at Dignity Health hospitals would not be denied reproductive health information or referrals.

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[32] *Id. (*quoting American Medical Association, Patient-Physician Relationships: Code of Medical Ethics Opinion 1.1.1, *AMA Principles of Medical Ethics: I, II, IV, VIII*, https://www.ama-assn.org/delivering-care/ethics/patient-physician-relationships (last visited Mar. 7, 2019)).

[33] Dignity Health, *Statement of Common Values*, https://www.dignityhealth.org/north-state/-/media/cm/media/documents/PDFs/Statement-of-Common-Values.ashx (last visited Mar. 7, 2019).

[34] ERD No. 74 at 26.

[35] ERD No. 73 at 26.

II. The UCSF/Dignity Health Partnership Raises Serious Legal Concerns under Federal and State Law

The exact scope of the proposed UCSF/Dignity Health partnership has not been made clear to the public. Nonetheless, any partnership where UCSF patients are being provided care in a Dignity Health facility that imposes religious restrictions on that care raises serious legal questions.

UCSF is a public entity. As such, it has legal obligations that go far beyond those of a private entity such as Dignity Health. It is the position of the undersigned—as evidenced by the several lawsuits the ACLU has filed against Dignity Health for its discriminatory denials of care—that even private entities cannot invoke religious belief as a justification for discrimination in businesses open to the general public. But it is certainly the case that California's public university system cannot invoke Dignity Health's religious beliefs as a basis for denying care to its patients.

Indeed, on its face, the UCSF/Dignity Health partnership raises a host of questions about how the government can legally partner with an entity that *explicitly restricts patient care on the basis of its religious beliefs*. Yet at the Committee meeting, the only legal analysis UCSF provided on this front pertained to religious iconography in Dignity Health facilities. While it is troubling that UCSF patients would be subjected to religious iconography in accessing care at Dignity Health facilities, this is plainly a lesser issue than those same patients being subjected to religiously restricted care. Among other laws, the UCSF/Dignity Health partnership raises concerns under the following:

Establishment Clause: Both the U.S. and California Constitutions prohibit "sponsorship, financial support, and active involvement of the [state] in religious activity." *Lemon v. Kurtzman*, 403 U.S. 602, 612 (1971). Even where the purpose of the government action is secular, the Establishment Clauses may still be violated where the principal or primary effect of the action advances religion or where the action fosters an excessive entanglement with religion. *Id.* at 612-13. The Supreme Court has also long held that the government unconstitutionally advances religion where it favors religion to the point of forcing unwilling third parties to bear the burden, or suffer harm, as a result of this favoritism. *See*, *e.g.*, *Estate of Thornton v. Caldor, Inc.*, 472 U.S. 703 (1985). Here, UCSF's decision to partner with Dignity Health facilities would impose on its patients the burden of Dignity Health's religious restrictions on care.

Equal Protection: Denying transgender people gender-affirming care constitutes sex discrimination in violation of constitutional equal protection. In the recent case of *Norsworthy v. Beard*, a federal district court held that the refusal of the California Department of Corrections ("CDCR") to provide a transgender inmate with gender-affirming care violated the federal equal protection clause. 87 F. Supp. 3d 1104 (N.D. Cal. 2015). As with Catholic health care entities, the CDCR allowed the contested procedure—vaginoplasty—for cisgender women, yet it denied the procedure for transgender women, deeming the procedure for them "medically unnecessary." The court concluded that such discrimination was discrimination on the basis of transgender status and did not hold up to intermediate scrutiny. *Id.* at 1121. Yet UCSF patients receiving care in Dignity Health facilities would similarly be denied gender-affirming care.

There is also clear case law that under the equal protection and privacy guarantees of the California Constitution, governmental entities must treat all pregnancy options neutrally. In

Committee to Defend Reproductive Rights v. Myers, 29 Cal. 3d 252, 285 (1981), the California Supreme Court found state restrictions on Medi-Cal funding of abortion to be unconstitutional, ruling that while the government need not provide public funding for any pregnancy-related care, it could not exclude abortion coverage if it provided support for prenatal care and delivery to indigent pregnant women. Thus, patients seeking care from UCSF cannot only be offered obstetric and gynecologic care—they also must be offered abortion care.

California's Constitutional No-Aid Clause: Article XVI, Section 5 of the California Constitution provides that no California state entity "shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help support or sustain any school, college, university, hospital or other institution controlled by any religious creed, church or sectarian denomination whatever . . . ." California courts have recognized that this clause is broader than either the federal or state establishment clauses, in that it prohibits government action that has "the direct, immediate, and substantial effect of advancing religion." *Paulson v. Abdelnour*, 145 Cal. App. 4th 400, 435 (2007). Even for a secular purpose, "a government entity may not enter into an exclusive contract with a religious organization which will result in the organization receiving a financial benefit from the government." *Id.*

California Non-Discrimination Law: In addition to the constitutional provisions, California statutory law is clear that government entities in California may not discriminate on the basis of sex, including gender identity, gender expression, and sexual orientation. Cal. Gov't Code § 11135. Nor may government entities contract with entities that discriminate on these bases. Cal. Gov't Code § 12990.

Even more generally, California's Unruh Civil Rights Act promises that all those within the jurisdiction of the state are "free and equal" and "entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever." Cal. Civ. Code § 51(b). Thus, the Unruh Act prohibits discrimination on the basis of sex, including gender identity, gender expression, and sexual orientation in all business establishments. *Id.* § 51(e)(5).

Indeed, California *prohibits* the University of California from requiring any of its employees to travel to states that have recently enacted laws that authorize discrimination based on sexual orientation, gender identity, or gender expression, and the state further prohibits UC from from approving requests for travel to those states. Cal. Gov't Code § 11139.8(b). This law was enacted specifically in response to other states enacting broad religious exemptions to their non-discrimination laws, and the preamble to the law states: "[t]he exercise of religious freedom should not be a justification for discrimination." *Id.* at § 11139.8(a)(4).

III. UCSF's Leadership in Evidence-Based, Inclusive, and Comprehensive Health Care

In addition to its legal obligations, UCSF also has a stated commitment to providing comprehensive reproductive health care as well as patient-centered, non-discriminatory care. As an institution, UCSF prides itself on providing care to patients with an individualized approach, recognizing that the when it comes to patient-centered care, the "whole is often greater than the

sum of its parts."[36] UCSF's Bixby Center for Global Reproductive Health is self-characterized as one of the few research institutions to "unflinchingly address abortion" by expanding and improving access, training providers, and supporting efficacy and safety through clinical trials and research.[37] Focusing on "evidence, empowerment and impact," the leadership of the Bixby Center has informed reproductive and sexual health policies, treatment, and care guidelines throughout the country and the world, helping to ensure access to the full scope of reproductive health care for all.[38]

UCSF has also been recognized as a leader in LGBTQ-inclusive care, achieving a perfect score on the LGBT Healthcare Equality Index, which evaluates providers on metrics of LGBTQ patient-centered care, several years in a row.[39] The innovative capacity-building, community research, and clinical programs of the Center of Excellence for Transgender Health are making strides towards achieving UCSF's mission to increase access to comprehensive, effective, and affirming health care services for transgender and gender non-conforming people at UCSF and throughout the field.[40] In addition, UCSF's Child and Adolescent Gender Center Clinic, with which National Center for Lesbian Rights and other community organizations have a longstanding relationship, provides comprehensive medical and psychological care, as well as advocacy and legal support, to gender non-conforming and transgender youth and adolescents.[41]

Thus, it is particularly troubling that UCSF would choose to partner with Dignity Health, when UCSF has long presented itself as committed to the very kind of care that Dignity Health refuses to provide—comprehensive reproductive health care and LGBTQ-inclusive care. Dignity Health's practices blatantly contradict UCSF's own professed Professionalism, Respect, Integrity, Diversity and Excellence (PRIDE) Values, community principles articulated in solidarity with the "integral cultural concept" within the LGBTQ community, representing solidarity, collectivity, and identity as well as resistance to discrimination and violence.[42]

In contrast, as mentioned above, the ERDs state that "Catholic health care institutions need to be concerned about the danger of scandal in any association with abortion providers,"[43] and the Conference of Catholic Bishops has said:

> Gender ideology harms individuals and societies by sowing confusion and self-doubt. The state itself has a compelling interest, therefore, in maintaining policies that uphold the scientific fact of human biology and supporting the social institutions and norms that

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[36] UCSF, *Patient Care Overview*, https://www.ucsf.edu/patient-care (last visited Feb. 1, 2019).
[37] Bixby Center for Global Reproductive Health, *Abortion*, https://bixbycenter.ucsf.edu/abortion (last visited Feb. 1, 2019).
[38] Bixby Center for Global Reproductive Health, *About Us,* https://bixbycenter.ucsf.edu/about-us (last visited Feb 1, 2019).
[39] Scott Maier, UCSF Health, *UCSF Health Named "Leader in LGBTQ Healthcare Equality" Hospital Receives Perfect Score on National LGBTQ Survey* (Mar. 30, 2017), https://www.ucsfhealth.org/news/2017/03/ucsf_health_named_leader_in_lgbtq_healthcare_equality.html (last visited Feb. 1, 2019).
[40] UCSF Center of Excellence of Transgender Health, *About Us*, http://transhealth.ucsf.edu/trans?page=ab-00-00 (last visited Feb. 1, 2019).
[41] UCSF Benioff Children's Hospital, *Child and Adolescent Gender Center Clinic*, https://www.ucsfbenioffchildrens.org/clinics/child_and_adolescent_gender_center/ (last visited Mar. 7, 2019).
[42]UCSF Office of Diversity and Outreach, *PRIDE Values*, https://diversity.ucsf.edu/PRIDE-values (last visited Feb. 1, 2019).
[43] ERDs*, supra* note 11, at 18 -19.

> surround it. … The movement today to enforce the false idea—that a man can be or become a woman or vice versa—is deeply troubling.[44]

At the Committee meeting, Dignity Health was referred to as a partner with closer shared values to UCSF than many other health systems because of its commitment to population health and serving the community. However, marginalized patients, including women of color who are more likely to receive reproductive health care at a Catholic-affiliated facility, most need access to complete and accurate care of the highest professional standards.[45] Failure to provide access to this care will only exacerbate existing health disparities.

As threats to reproductive health care access continue to escalate at the national level, and more barriers are erected against LGTBQ individuals seeking care, UCSF must remain firmly committed to its history and bedrock principles of inclusive, unbiased care. A partnership with Dignity Health stands in direct contradiction to those values. We therefore strongly urge UCSF to reconsider its affiliation with Dignity Health. Should UCSF choose to proceed with this partnership, we will consider a variety of potential next steps, including litigation.

Please direct future communications to Phyllida Burlingame, Reproductive Justice and Gender Equity Director at the ACLU Foundation of Northern California, via pburlingame@aclunc.org. We look forward to your reply.

Sincerely,

Phyllida Burlingame
Reproductive Justice and Gender Equity Director
ACLU Foundation of Northern California

Julie Wilensky
Senior Staff Attorney
National Center for Lesbian Rights

Susan Berke Fogel, JD
Director of Reproductive and Sexual Health
National Health Law Program

cc: University of California Board of Regents via regentsoffice@ucop.edu and U.S. Mail
University of California Office of the President via president@ucop.edu and U.S. Mail

[44] U.S. Conference of Catholic Bishops, *supra* note 7.

[45] Kira Shepherd, Elizabeth Reiner Platt, & Katherine Franke et al., *Bearing Faith: The Limits of Catholic Health Care for Women of Color* (2017), *available at* https://www.law.columbia.edu/sites/default/files/microsites/gender-sexuality/PRPCP/bearingfaith.pdf.

AFFILIATION AGREEMENT
BETWEEN
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
AND
ST. JOSEPH HOSPITAL OF ORANGE

DEPARTMENT OF OBSTETRICS AND GYNECOLOGY

(GYNECOLOGY ONCOLOGY FELLOWSHIP)

THIS AFFILIATION AGREEMENT ("Agreement") is made and entered into this 1st day of June 1, 2016, by and between The Regents of the University of California, a Constitutional corporation, on behalf of the University of California, Irvine, SCHOOL OF MEDICINE ("SCHOOL"), and ST. JOSEPH HOSPITAL OF ORANGE ("AFFILIATE"), a California non-profit public benefit corporation with reference to the following facts:

WITNESSETH:

WHEREAS, SCHOOL conducts graduate medical education programs for resident physicians and fellows, (hereinafter collectively referred to as "TRAINEES") and desires access to facilities in which TRAINEES can obtain broader clinical learning experiences; and

WHEREAS, the American Board of Obstetrics and Gynecology ("ABOG") establishes and oversees the requirements for graduate medical education programs;

WHEREAS, AFFILIATE maintains facilities which can be used to furnish clinical experience to TRAINEES, and AFFILIATE desires to have their facilities so used; and

WHEREAS, it is in the mutual interest and benefit of the parties that TRAINEES obtain their clinical experience at AFFILIATE'S facilities in accordance with the requirements of the ABOG.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth below, the parties agree as follows:

I. RESPONSIBILITIES OF SCHOOL. SCHOOL agrees that it shall:

A. Establish the educational goals and objectives of its (SCHOOL'S) graduate medical education programs in a manner consistent with the standards and requirements set forth by SCHOOL and the ABOG for program accreditation. Such goals and objectives shall reflect SCHOOL'S commitment to providing education and training programs to TRAINEES. A list of SCHOOL'S program(s) which are covered by this Agreement is attached hereto and incorporated herein as Exhibit I. The letter(s) of agreement if any for specific SCHOOL Programs are attached hereto as Exhibit II.

B. Designate a member of SCHOOL'S faculty to provide coordination, oversight and direction of TRAINEES' educational activities and assignments while at AFFILIATE. Such person shall be the Program Director and shall also act as liaison with AFFILIATE. He/she should be certified by the specialty board in the discipline of the SCHOOL'S GYNECOLOGY ONCOLOGY Program ("Program") or should possess suitable equivalent qualifications as an instructor, clinician, and administrator, as determined by SCHOOL.

C. Cooperate with AFFILIATE in coordinating and reviewing work schedules of TRAINEES while at AFFILIATE. Such schedules shall reflect SCHOOL'S educational missions and shall not be compromised by an excessive reliance on TRAINEES to fulfill institutional service obligations. SCHOOL shall ensure that its graduate medical education programs provide appropriate supervision for all TRAINEES, as well as duty hours schedule and a work environment that is consistent with proper patient care, the educational needs of TRAINEES, and the applicable Program Requirements.

1. TRAINEES must be supervised by SCHOOL faculty in such a way that TRAINEES assume progressively increasing responsibility according to their level of education, ability, and experience. On-call schedules for SCHOOL faculty must be structured to ensure that SCHOOL faculty supervision is readily available to TRAINEES. The level of responsibility accorded to each TRAINEE must be determined by the SCHOOL faculty, and communicated to AFFILIATE in writing prior to the TRAINEE'S commencement of training under this Agreement.

2. SCHOOL shall ensure that each of its residency programs establishes formal policies governing the duty hours for TRAINEES to promote medical education and facilitate patient care, and shall communicate such policies to AFFILIATE in writing prior to the TRAINEE'S commencement of training under this Agreement.

3. SCHOOL shall provide services and develop systems to minimize the work of TRAINEES that is extraneous to their educational program(s). A copy of the

SCHOOL's Guidelines concerning hours and working conditions of TRAINEES is attached hereto as Exhibit III and incorporated herein.

D. Assign SCHOOL faculty members, who shall apply for and maintain medical staff privileges at AFFILIATE'S facilities in accordance with the AFFILIATE'S Medical Staff Bylaws & Rules and Regulations, in sufficient numbers to provide supervision and management of TRAINEES' work while at AFFILIATE'S facilities under the direction of the Program Director. Supervisory faculty must qualify for, obtain and maintain a faculty appointment with SCHOOL in accordance with SCHOOL'S academic review and appointment procedures. Nothing in this Agreement shall require AFFILIATE to grant Medical Staff membership to SCHOOL faculty members who do not meet or comply with Medical Staff Bylaws & Rules and Regulations

E. Recruit and select TRAINEES who are appropriately credentialed, licensed, or otherwise authorized to participate in SCHOOL's Program.

F. Provide the names of TRAINEES and their assignments to AFFILIATE sufficiently in advance to allow for convenient planning of duty schedules.

G. Develop and implement a mechanism for determining evaluation of the performance of TRAINEES to include, where appropriate, input from AFFILIATE.

H. Maintain records and reports concerning the education of TRAINEES and of TRAINEES' time spent in the various educational activities referred to in this Agreement, as

may be required by SCHOOL, ABOG, and/or for compliance with the regulations, guidelines, and policies of third-party payors.

I. Require assigned TRAINEES to:

1. Comply with AFFILIATE'S applicable Medical Staff Bylaws & Rules and Regulations, AFFILIATE'S policies, procedures and guidelines, state and federal laws and regulations, and the standards and regulations of the Joint Commission, ABOG, the ABOG, and the ethical standards of the American Medical Association;

2. Participate, to the extent scheduled or otherwise requested by AFFILIATE and approved by SCHOOL, in activities and assignments that are of educational value and that are appropriate to the course and scope of SCHOOL'S Program, consistent with the requirements of ABOG;

3. Participate, consistent with the terms of this Agreement, in quality assurance and risk management activities designed to identify, evaluate and reduce risk of patient injury;

4. Cooperate in the timely preparation and maintenance of a complete medical record for each patient in whose care he/she participates, on forms provided by the AFFILIATE. The medical record shall, at all times, remain the property of the AFFILIATE.

II. RESPONSIBILITIES OF AFFILIATE. AFFILIATE agrees that it shall:

A. Maintain adequate staff, facilities, and SCHOOL faculty at its premises at 1000 W. LaVeta, Orange, CA 92868, to meet the educational goals and objectives of the SCHOOL's Program in a manner consistent with the standards and requirements established by SCHOOL and the ABOG.

B. AFFILIATE shall conduct formal quality assurance programs and review patient complications and deaths as follows:

1. All TRAINEES shall receive instruction in quality assurance/performance improvement. To the degree possible and in conformance with state law, TRAINEES shall participate in appropriate components of AFFILIATE'S quality assurance/performance improvement program.

2. AFFILIATE shall have a medical records system that assures the availability of medical records at all times and documents the course of each patient's illness, and care. The medical records system must be adequate to support the education of TRAINEES and quality-assurance/performance improvement activities and to provide a resource for scholarly activity.

C. Designate the UCI program coordinator to coordinate TRAINEES' duty schedules and activities while at AFFILIATE. Such person shall be the Program Coordinator and shall act as liaison with SCHOOL. The name of AFFILIATE'S Program Coordinator shall be provided to SCHOOL'S Program Director.

D. Implement duty schedules for TRAINEES in conjunction with SCHOOL'S Program Coordinator and in accordance with SCHOOL'S educational goals and objectives.

1. AFFILIATE shall ensure the Program's educational goals. TRAINEES' learning objectives are not to be compromised by excessive reliance on TRAINEES to fulfill institutional service obligations. Duty hours, however, must reflect the fact that responsibilities for continuing patient care are not automatically discharged at specific times. Programs must ensure that TRAINEES are provided appropriate backup support when patient care responsibilities are especially unusual, difficult or prolonged.

2. AFFILIATE shall ensure that TRAINEE duty hours and on-call time periods are not excessive. The structuring of duty hours and on-call schedules must focus on the needs of the patient, continuity of care, and the educational needs of the TRAINEE. Duty hours shall be consistent with the institutional and ABOG program requirements that apply to each program.

E. Protect the health and safety of TRAINEES on rotation at AFFILIATE'S health facility by providing each TRAINEE with the following:

1. Orientation of the type and scope provided by AFFILIATE to its new employees, including, but not limited to, information about AFFILIATE'S security measures, fire safety and disaster protocols, and any additional recommended personnel safety and security precautions;

2. Instruction in AFFILIATE'S policies and procedures for infection control, including the handling and disposal of needles and other sharp objects, and in AFFILIATE'S protocols for on-the-job injuries including those resulting from needlestick injuries and other exposures to blood or body fluids or airborne contaminants.

3. First aid and other emergency treatment on-site, including, but not limited to, immediate evaluation for risk of infection and appropriate follow-up care of TRAINEE in the event of a needlestick injury to or other exposure of TRAINEE to blood or body fluids or airborne contaminants. In the case of suspected or confirmed exposure to the human immuno-deficiency virus (HIV) or hepatitis, such follow-up care shall be consistent with the current guidelines of the Centers for Disease Control ("CDC") and the community's standard of care. Information regarding the CDC may be obtained by calling (800) 342-2437. All such care shall be paid for by Trainees or their health insurance provider; and

4. Information concerning availability of parking, meals, lockers, and appropriate access to on-call rooms and bathroom/shower facilities as appropriate;

F. Maintain its license as an acute care facility and comply with all applicable laws and regulations. AFFILIATE shall notify SCHOOL within five days of receipt of notice that AFFILIATE's license is in jeopardy.

G. Permit reasonably requested inspections of its clinical and related facilities by individuals charged with the responsibility for accreditation of SCHOOL and/or its Program at mutually agreeable and scheduled times.

H. With respect to any professional services performed by TRAINEES under this Agreement, AFFILIATE agrees to inform SCHOOL and its Program Director as follows:

1. Immediately upon initiation of an investigation of a TRAINEE or SCHOOL faculty member.

2. Within five days after receipt of service of a complaint, summons or notice of a claim naming a TRAINEE or SCHOOL faculty member.

3. Prior to making or accepting a settlement offer in any lawsuit or legal claim in which a SCHOOL faculty member or TRAINEE has been named or in which a settlement is being proposed on their behalf; or

4. Prior to making a report to the National Data Bank or the Medical Board of California in which a SCHOOL faculty member or TRAINEE is named.

5. Notwithstanding the above, AFFILIATE may temporarily suspend, and/or may request SCHOOL to withdraw, any TRAINEE from the Program whose conduct or health status may, in AFFILIATE's sole determination, have a detrimental effect on AFFILIATE. Wherever possible, such suspension or withdrawal shall be planned cooperatively by AFFILIATE and SCHOOL, and any grievance against any TRAINEE shall be discussed with the TRAINEE and the Program Directors; provided, however, that AFFILIATE may immediately remove from its premises any TRAINEE who, in AFFILIATE's sole determination, poses an immediate threat or danger to AFFILIATE or its patients or personnel.

I. Provide, consistent with what AFFILIATE provides to other employees and physicians:

1. Adequate and appropriate food services and sleeping quarters for TRAINEES.

2. Patient support services, such as intravenous services, phlebotomy services, and laboratory services, as well as messenger and transporter services, in a manner appropriate to and consistent with educational objectives and patient care.

3. An effective laboratory, and radiologic information retrieval system for the appropriate conduct of the educational programs and quality and timely patient care.

4. Appropriate security measures to protect TRAINEES in all locations, including but not limited to, parking facilities, on-call quarters, hospital and institutional grounds, and related clinical facilities (e.g., medical office building).

J. Cooperate with and assist SCHOOL in investigating facts which may serve as a basis for taking any disciplinary or academic action against a TRAINEE or SCHOOL faculty member. SCHOOL may, but need not, consult with AFFILIATE concerning any proposed disciplinary action. AFFILIATE agrees to abide by SCHOOL's recommended disciplinary action against TRAINEE(S) or SCHOOL faculty member. Notwithstanding the foregoing, AFFILIATE shall have the right, for good cause and after consultation with SCHOOL, to prohibit further attendance at AFFILIATE of any TRAINEE; provided,

however, that AFFILIATE will not take any action against TRAINEES in an arbitrary or capricious manner. Upon such termination, SCHOOL will use its best efforts to replace the terminated TRAINEE with another TRAINEE as soon as possible.

III. COMPENSATION.

A. TRAINEES assigned to AFFILIATE shall be compensated by SCHOOL for payment of salaries and benefits. Such benefits shall include health and dental insurance, professional liability insurance, worker's compensation insurance, all applicable taxes and costs under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA") including applicable Medicare taxes, if any, and OASDI coverage under the Revenue Reconciliation Act of 1990, if any.

IV. STATUS OF TRAINEES.

A. During the period in which a TRAINEE is assigned to the AFFILIATE, the TRAINEE shall be under the direction and control of the SCHOOL'S Program Director or, in the Program Director's absence, his/her designee(s).

B. It is expressly agreed and understood by SCHOOL and AFFILIATE that TRAINEES are present at the AFFILIATE'S facilities to participate in activities and assignments that are of educational value to TRAINEES, and that are appropriate to the course and scope of SCHOOL's program and consistent with the requirements of the ABOG.

C. SCHOOL and AFFILIATE shall ensure that TRAINEES have the opportunity to:

1. Develop a program of learning to foster continued professional growth with guidance from the teaching staff.

2. Participate in safe, effective, and compassionate patient care, under supervision, commensurate with their level of advancement and responsibility, as determined by SCHOOL.

3. Participate fully in the educational and scholarly activities of their program and, as required, assume responsibility for teaching and supervising other TRAINEES and students.

4. Participate, as appropriate, in AFFILIATE programs and medical staff activities and adhere to established practices, procedures, and policies of the AFFILIATE.

5. Have appropriate representation on AFFILIATE committees and councils whose actions affect their education and/or patient care.

6. Submit to the AFFILIATE'S Program Director, at least annually, confidential written evaluations of the faculty and of the educational experiences.

V. ASSIGNMENT OF TRAINEES.

A. Commencing on the date of execution of this Agreement and subject to the provision of Section II. hereof, SCHOOL shall assign TRAINEES for rotation at AFFILIATE'S facilities as described in Section II.A of this Agreement.

VI. DISCRIMINATION - PROHIBITION.

SCHOOL and AFFILIATE agree not to discriminate in the selection or acceptance of any TRAINEE pursuant to this Agreement because of race, color, national origin, religion, sex, sexual orientation, mental or physical disability, age, veteran's status, medical condition (cancer-related) as defined in section 12926 of the California Government Code, ancestry, or marital status; or citizenship, within the limits imposed by law or SCHOOL policy.

VII. TERM.

The term of this Agreement shall become effective June 1, 2016 and shall continue in effect for a maximum of three (3) years, through May 31, 2019 or until earlier terminated.

VIII. TERMINATION.

A. Termination Without Cause. Notwithstanding any other provision to the contrary, this Agreement may be terminated without cause at any time by either party upon one hundred eighty (180) days' prior written notice to the other party or upon completion of the TRAINEES' rotation, whichever is greater.

B. Termination For Cause. In the event of a material breach of this Agreement, the aggrieved party may terminate this Agreement by giving sixty (60) days' prior written notice of termination to the breaching party. In addition, AFFILIATE may terminate this Agreement immediately if, in AFFILIATE's sole determination, SCHOOL or any TRAINEE has failed to adhere to AFFILIATE policies or procedures or present any threat to the health or safety of AFFILIATE's patients and personnel.

IX. INSURANCE.

A. AFFILIATE, at its sole cost and expense, shall insure its activities in connection with this Agreement and obtain, keep in force and maintain insurance or self-insure as follows:

1. Professional Medical, and Hospital Liability Insurance with financially-sound and reputable companies with limits of one million dollars ($1,000,000) per occurrence and a general aggregate of three million dollars ($3,000,000). If such insurance is written on a claims-made form, it shall continue for five (5) years following termination of this Agreement. The insurance shall have a retroactive date prior to or coinciding with the effective date of this Agreement and a deductible of no more than five hundred thousand dollars ($500,000). In the event that a claims-made policy is canceled or non-renewed, then the AFFILIATE shall obtain extended reporting (tail) coverage for the remainder of the five (5) year period.

2. Comprehensive or Commercial Form General Liability Insurance (contractual liability included) with a limit of three million dollars ($3,000,000) per occurrence. If such insurance is written on a claims-made form, it shall continue for three years following termination of this Agreement. The insurance shall have a retroactive date prior to or coinciding with the effective date of this Agreement.

3. Workers' Compensation Insurance in a form and amount covering AFFILIATE'S full liability as required by law under the Workers' Compensation Insurance and Safety Act of the State of California as amended from time to time.

4. Such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of the parties against other insurable risks relating to performance.

It should be expressly understood, however, that the coverages required under this Section IX.A.1 and 2 shall not in any way limit the liability of AFFILIATE.

AFFILIATE, upon the execution of this Agreement, shall furnish SCHOOL with Certificates of Insurance evidencing compliance with all requirements.

B. SCHOOL shall maintain insurance or self-insure its activities and the activities of TRAINEES, the Program Director and SCHOOL faculty in connection with this Agreement by maintaining programs of self-insurance as follows:

1. Professional Medical and Hospital Liability self-insurance with limits of one million dollars ($1,000,000) per occurrence, with a general aggregate of three million dollars ($3,000,000). If such insurance is written on a claims-made form, it shall continue for five years following termination of this Agreement. The insurance shall have a retroactive date prior to or coinciding with the effective date of this Agreement and a deductible of no more than five hundred thousand dollars ($500,000). In the event that a claims-made policy is canceled or non-renewed, then the AFFILIATE shall obtain extended reporting (tail) coverage for the remainder of the five (5) year period.

2. General Liability Self-Insurance Program with a limit of three million dollars ($3,000,000) per occurrence. If such insurance is written on a claims-made form, it

shall continue for three years following termination of this Agreement. The insurance shall have a retroactive date prior to or coinciding with the effective date of this Agreement.

3. Workers' Compensation Self-Insurance Program covering SCHOOL'S full liability as required by law under the Workers' Compensation Insurance and Safety Act of the State of California as amended from time to time.

4. Such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of the parties against other insurable risks relating to performance.

It should be expressly understood, however, that the coverages required under this Section IX.B.1 and 2 shall not in any way limit the liability of SCHOOL.

SCHOOL, upon the execution of this Agreement, shall furnish AFFILIATE with Certificates of Self-Insurance evidencing compliance with all requirements.

X. INDEMNIFICATION.

A. AFFILIATE shall defend, indemnify and hold SCHOOL, its officers, employees, agents, and TRAINEES harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of AFFILIATE, its officers, employees, or agents.

B. SCHOOL shall defend, indemnify and hold AFFILIATE, its officers, employees and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of SCHOOL, its officers, employees, agents, or TRAINEES.

XI. COOPERATION IN DISPOSITION OF CLAIMS.

AFFILIATE and SCHOOL agree to cooperate with each other in the timely investigation and disposition of audits, peer review matters, disciplinary actions and third-party liability claims arising out of any services provided under this Agreement or in the operation of the Program. The parties shall notify one another as soon as possible of any adverse event which may result in liability to the other party. It is the intention of the parties to fully cooperate in the disposition of all such audits, actions or claims. Such cooperation may include, but is not limited to, timely notice, joint investigation, defense, disposition of claims of third parties arising from services performed under this Agreement, and making witnesses available. SCHOOL shall be responsible for discipline of TRAINEES in accordance with SCHOOL'S applicable policies and procedures.

To the extent allowed by law, AFFILIATE and SCHOOL shall have reasonable and timely access to the medical records, charts, applicable Medical Staff minutes and/or quality assurance data of the other party relating to any claim or investigation related to services provided pursuant to this Agreement; provided, however, that nothing shall require either

AFFILIATE or SCHOOL to disclose any peer review documents, records or communications which are privileged under Section 1157 of the California Evidence Code, under the Attorney-Client Privilege or under the Attorney Work-Product Privilege.

XII. PATIENT RECORDS.

Any and all of AFFILIATE'S medical records and charts created at AFFILIATE'S facilities as a result of performance under this Agreement shall be and shall remain the property of AFFILIATE. Both during and after the term of this Agreement, SCHOOL shall be permitted to inspect and/or duplicate, at SCHOOL'S expense, any individual charts or records which are: (1) necessary to assist in the defense of any malpractice or similar claim; (2) relevant to any disciplinary action; and/or (3) for educational or research purposes. Such inspection and/or duplication shall be permitted and conducted pursuant to commonly accepted standards of patient confidentiality in accordance with applicable federal, state and local laws.

XIII. ARBITRATION.

In the event of any dispute arising between the parties concerning the interpretation or enforcement of the provisions of this Agreement, the parties agree to first attempt in good faith to resolve the dispute between themselves. If the parties are unable to resolve the dispute within thirty (30) days, then all matters in controversy shall be submitted to arbitration pursuant to California Code of Civil Procedure section 1280, et seq. as applicable, using the offices of the American Arbitration Association. Arbitration shall be initiated by either party making a written demand for arbitration on the other party, as applicable, using the offices of the American Arbitration Association. Unless the parties can agree on a single arbitrator within ten (10) days from the receipt of the written demand for arbitration, each party shall designate an arbitrator within fifteen (15) days of receipt of the written demand for arbitration. Within seven (7) days of the appointment of two arbitrators, those arbitrators shall designate a third arbitrator. The parties agree that either party to an arbitration may seek judicial review by way of a petition to the court to confirm, correct or vacate an arbitration award pursuant to the provisions of Code of Civil Procedure sections 1285 and 1294.2.

XIV. INTERRUPTION OF SERVICE.

Either party shall be excused from any delay or failure in performance hereunder caused by reason of any occurrence or contingency beyond its reasonable control, including, but not limited to, acts of God, acts of war, fire, insurrection, labor disputes, riots, earthquakes, or other acts of nature. The obligations and rights of the party so excused shall be extended on a day-to-day basis for the time period equal to the period of such excusable

interruption. In the event the interruption of a party's services continues for a period in excess of thirty (30) days, the other party shall have the right to terminate this Agreement upon ten (10) days' prior written notice to the other party.

XV. ATTORNEYS' FEES.

In the event of any action, suit or proceeding, between the parties hereto, the cost of such action, suit or proceeding, including reasonable attorneys' fees, shall be borne by the losing party or, in the case of an arbitration, as determined by the arbitrator.

XVI. ASSIGNMENT.

Neither AFFILIATE nor SCHOOL shall assign their rights, duties, or obligations under this Agreement, either in whole or in part, without the prior written consent of the other. AFFILIATE may not assign TRAINEES to locations other than those described in Section II.A. without the prior written consent of SCHOOL.

XVII. SEVERABILITY.

If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws effective during the term hereof, such provision shall be fully severable. This Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been a part of the Agreement, and the remaining provisions shall remain in full force and effect unaffected by such severance, provided that the severed provision(s) are not material to the overall purpose and operation of this Agreement.

XVIII. WAIVER.

Waiver by either party of any breach of any provision of this Agreement or warranty of representation herein set forth shall not be construed as a waiver of any subsequent breach of the same or any other provision. The failure to exercise any right hereunder shall not operate as a waiver of such right. All rights and remedies provided for herein are cumulative.

XIX. EXHIBITS.

Any and all exhibits attached hereto, including but not limited to EXHIBIT IV "ADDITIONAL PROVISIONS", are incorporated herein by reference and made a part of this Agreement.

XX. MODIFICATIONS AND AMENDMENTS.

This Agreement may be amended or modified at any time by mutual written consent of the authorized representatives of both parties. AFFILIATE and SCHOOL agree to amend this Agreement to the extent amendment is required by an applicable regulatory authority and the amendment does not materially affect the provisions of this Agreement.

XXI. ENTIRE AGREEMENT.

This Agreement contains all the terms and conditions agreed upon by the parties regarding the subject matter of this Agreement and supersedes any prior agreements, oral or written, and all other communications between the parties relating to such subject matter.

XXII. GOVERNING LAW.

This Agreement shall be governed in all respects by the laws of the State of California.

XXIII. NOTICES.

All notices required under this Agreement shall be deemed to have been fully given when made in writing and deposited in the United States mail, postage prepaid, certified mail, return receipt requested, and addressed as follows:

TO SCHOOL:
Dean, School of Medicine
University of California Irvine
Irvine Hall
Irvine, CA 92697-3950

With copy to:
Manuel Porto, M.D., Chairman
Department of Obstetrics and Gynecology
101 The City Drive
UCIMC
Orange, CA 92868

TO AFFILIATE:
S. Joseph Hospital of Orange
Steven C. Moreau
President & CEO
1100 Stewart Drive
Orange, CA 92868

XXIV ADDITIONAL PROVISIONS

A.

The parties have executed this Agreement as set forth below.

ST. JOSEPH HOSPITAL OF ORANGE

Jeremy Zoch
Executive VP & COO

Date:

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

Rebecca Brusuelas-James
Associate Vice Chancellor for Administration & Chief of Staff
UC Irvine Health Affairs

6/30/16
Date:

Approved-as-to-content:

Lawrence D. Wagman, M.D.

Executive Medical Director,
The Center for Cancer Prevention and Treatment;
Dean, School of St. Joseph's Hospital of Orange

Approved-as-to-content:

Michael J. Stamos, M.D.

Interim Dean
UC Irvine School of Medicine
Date: 08/09/2016

Robert Bristow, M.D.
Chair, Department of Obstetrics & Gynecology
Date: 5/27/16

The parties have executed this Agreement as set forth below.

ST. JOSEPH HOSPITAL OF ORANGE

Jeremy Zoch
Executive VP & COO

5/26/16
Date:

Date:

Approved-as-to-content:

Lawrence D. Wagman, M.D.

Executive Medical Director,
The Center for Cancer Prevention and Treatment;
Dean, School of St. Joseph's Hospital of Orange

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

Rebecca Brusuelas-James
Associate Vice Chancellor for Administration & Chief of Staff
UC Irvine Health Affairs

Date:

Approved-as-to-content:

Michael J. Stamos, M.D.

Interim Dean
UC Irvine School of Medicine
Date: _____

Robert Bristow, M.D.
Chair, Department of Obstetrics & Gynecology
Date: _____

EXHIBIT I
PROGRAMS COVERED BY THIS AGREEMENT

Obstetrics and Gynecology
Gynecologic Oncology Fellowship

EXHIBIT II
PROGRAM AGREEMENT
ST. JOSEPH HOSPITAL OF ORANGE
(Gynecology Oncology Fellowship)

This Program Agreement is made and entered into this 1st day of June, 2016, with reference to the following facts:

WITNESSETH:

A. The Regents of the University of California, a constitutional corporation, on behalf of the University of California, Irvine, School of Medicine (hereinafter referred to as the "SCHOOL") and ST. JOSEPH HOPITAL OF ORANGE hereinafter referred to as the "AFFILIATE") have entered into an Affiliation Agreement dated 6/1/2016 under which AFFILIATE has agreed to make certain of its health care facilities available to SCHOOL for graduate medical education programs involving medical students, residents and fellows;

B. The Master Affiliation Agreement contemplates that SCHOOL and AFFILIATE shall enter into agreements from time to time to address issues relative to the implementation and/or operation of specific clinical training programs at AFFILIATE; and

C. SCHOOL and AFFILIATE desire by this Program Agreement to document their understandings and agreements concerning the operation of certain aspects of a clinical training program in Gynecology Oncology Fellowship at AFFILIATE (the "Program").

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth below, SCHOOL and AFFILIATE agree was follows:

I. INCORPORATION OF MASTER AFFILIATION AGREEMENT.

SCHOOL and AFFILIATE agree that, except as provided in Section II below, the Program shall be operated substantially in accordance with the terms and conditions set forth in the Master Affiliation Agreement, which are incorporated herein by this reference.

II. PROGRAM-SPECIFIC AGREEMENTS.

Anything in the Master Affiliation Agreement to the contrary, notwithstanding, SCHOOL and AFFILIATE agree that the following terms and conditions shall govern certain operations of the Program:

1. Identify the official (by name) at the participating institution or facility who will assume administrative, educational and supervisory responsibility for the fellows(s):

   Krishnansu Tewari, M.D.

2. Outline the educational goals and objectives to be attained within the participating institutions:

   To train and develop fellows in the various aspects of diagnosis and treatment of differing gynecologic cancers.

3. Specify the period of assignment of the fellows to the participating institution, the financial arrangement and the details for insurance and benefits.

   Fellows will be attending clinic one half day per month and performing surgeries when scheduled. St. Joseph's Hospital agrees to pay the Department of Obstetrics and Gynecology 0.5FTE based on an annual salary of $63,793 (step VI) with a benefit rate of 0.63 of salary with Maximum annual payment of $45,000.

4. Determine the participating institution's responsibility for teaching, supervision and formal evaluation of residents' performances.

Dr. Tewari is responsible for teaching, supervising, and evaluating the fellows rotating at St. Joseph's Hospital. Dr. Wagman completes evaluations at the end of the rotation using forms that are provided from the UCI Gynecologic Oncology Fellowship Program.

5. Establish with the participating institution the policies and procedures that govern the fellows' education while rotating to the participating institution.

While the fellows are at the participating institution, the policies and procedures that govern their education will be those of UC Irvine School of Medicine and the Department of Obstetrics and Gynecology.

III. TERM.

The term of this Program Agreement shall commence on June 1, 2016 and shall continue in effect until May 31, 2019; provided however, that any party may sooner terminate this Agreement at any time upon providing written notice to the other party not less than sixty (60) days in advance of the effective date of such termination, such notice to be given in the manner hereinafter specified in Paragraph XXIII of the Agreement.

The parties have executed this Program Agreement as set forth below.

SCHOOL	AFFILIATE
By: _____	By_____
Robert Bristow, M.D.	Jeremy Zoch
Date: 5/27/16	Date:_____

4. Determine the participating institution's responsibility for teaching, supervision and formal evaluation of residents' performances.

Dr. Tewari is responsible for teaching, supervising, and evaluating the fellows rotating at St. Joseph's Hospital. Dr. Wagman completes evaluations at the end of the rotation using forms that are provided from the UCI Gynecologic Oncology Fellowship Program.

5. Establish with the participating institution the policies and procedures that govern the fellows' education while rotating to the participating institution.

While the fellows are at the participating institution, the policies and procedures that govern their education will be those of UC Irvine School of Medicine and the Department of Obstetrics and Gynecology.

III. TERM.

The term of this Program Agreement shall commence on June 1, 2016 and shall continue in effect until May 31, 2019; provided however, that any party may sooner terminate this Agreement at any time upon providing written notice to the other party not less than sixty (60) days in advance of the effective date of such termination, such notice to be given in the manner hereinafter specified in Paragraph XXIII of the Agreement.

The parties have executed this Program Agreement as set forth below.

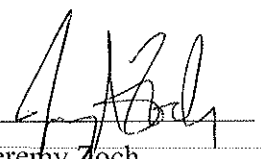
SCHOOL	AFFILIATE
By: _____	By 
Robert Bristow, M.D.	Jeremy Zoch
Date:_____	Date: 5/26/16

EXHIBIT III

The University of California sponsors graduate medical education programs in multiple medical and surgical specialties at each of its five academic medical centers. Among the primary objectives of the University in sponsoring such programs are the provision of quality education and training opportunities to resident physicians, as well as the provision of quality health services to patients.

While the University recognizes that neither the medical needs of patients, nor the professional responsibilities of their physicians, begin or end at arbitrarily defined hours, the University nevertheless endorses the establishment of the following guidelines concerning the hours and working conditions of resident physicians:

University of California, Irvine

School of Medicine Graduate Medical Education Committee

UC IRVINE GRADUATE MEDICAL EDUCATION DUTY HOURS POLICY
The Graduate Medical Education Committee (GMEC) voted to endorse and adopt the ABOG Duty Hours Policy contained in the 2011 Common Program Requirements sections VI.E, F & G.

1. The term "resident" in this document refers to both specialty residents and subspecialty fellows.

2. For all training programs at UC Irvine, School of Medicine (SOM), duty hours are limited to 80 hours per week (except as provided in point 3 below) averaged over 4 weeks including all in-house call and all moonlighting.

3. Duty Hour Exceptions: Should an ABOG Review Committee governing a SOM Residency program allow an exception to the 80 hour rule in accordance with CPR VI.G.1.a, the program director, with the prior approval of SOM DIO and GMEC, may request an exemption of the 80 hour rule by following the duty hour exception policy from the ABOG Manual on Policies and Procedures, Section 22.10.

4. Residents must be scheduled for a minimum of one day free of duty every week (when averaged over four weeks). At-home call cannot be assigned on these free days.

5. Duty periods of PG-1 residents must not exceed 16 hours in duration.

6. Duty periods of PG-2 residents and above may be scheduled to a maximum of 24 hours of continuous duty in the hospital.

7. Programs must encourage residents to use alertness management strategies in the context of patient care responsibilities. Strategic napping, especially after 16 hours of continuous duty and between the hours of 10:00 p.m. and 8:00 a.m., is strongly suggested.

8. It is essential for patient safety and resident education that effective transitions in care occur. Residents may be allowed to remain on-site in order to accomplish these tasks; however, this period of time must be no longer than an additional four hours.

9. Residents must not be assigned additional clinical responsibilities after 24 hours of continuous in-house duty.

10. In unusual circumstances, residents, on their own initiative, may remain beyond their scheduled period of duty to continue to provide care to a single patient. Justifications for such extensions of duty are limited to reasons of required continuity for a severely ill or unstable patient, academic importance of the events transpiring, or humanistic attention to the needs of a patient or family.

a. Under those circumstances, the resident must:
   i. appropriately hand over the care of all other patients to the team responsible for their continuing care; and,
   ii. document the reasons for remaining to care for the patient in question and submit that documentation in every circumstance to the program director.

N. Koehring/K. Le-Bucklin: Approved by GMEC, November 2011

EXHIBIT IV
ST. JOSEPH HOSPITAL OF ORANGE ADDITIONAL PROVISIONS

Use of Premises. In order to preserve Hospital's exemption from property and other taxes, pursuant to state and federal law, Hospital space must be used for Hospital purposes only, which include the training and education of TRAINEES. Consequently, no part of the Department's premises shall be used at any time by TRAINEES or SCHOOL Faculty as an office for personal use, including for the general/private practice of medicine. Neither TRAINEE nor SCHOOL faculty shall incur any financial obligation on behalf of Hospital without Hospital's prior written consent, which consent shall be in Hospital's sole and absolute discretion.

Patient Care. Pursuant to Section 70713 of Title 22, SCHOOL understands and agrees that Hospital, with its Medical Staff, retains professional and administrative responsibility for services rendered to Hospital patients. Further, SCHOOL shall conduct its activities in providing services hereunder consistent with relevant law and regulation, the Medical Staff Bylaws, the Medical Staff Rules and Regulations, Hospital policy and procedures, Emergency Medical Treatment and Labor Act ("EMTALA"), Title 22, the standards and requirements under the Joint Commission ("JC"), professional standards, Hospital philosophy and values and the Ethical and Religious Directives for Catholic Health Care Services. The parties understand and agree that this provision is intended to fulfill requirements of JC and state law and is not intended to modify the independent contractor relationship, nor mutual indemnification requirements between the parties herein.

Compliance. It is acknowledged that the Corporate Responsibility Program applies to the services and obligations described herein. This program is intended to prevent compliance concerns such as fraud, abuse, false claims, excess private benefit and inappropriate referrals. This compliance program requires and it is hereby agreed that any regulatory compliance concerns shall be promptly reported either to an appropriate manager or through the hotline (877-808-8133). Further, it is represented and warranted that all individuals providing service hereunder shall not at any time have been sanctioned by a health care regulatory agency and, finally, that investigatory activity relevant to this organization shall be promptly reported to an organization manager or via the hotline (as above).

SCHOOL shall assure that each TRAINEE has never been suspended, excluded, barred or sanctioned under the Medicare or Medicaid programs, or by any government licensing agency. SCHOOL shall immediately remove the TRAINEE from the Program at AFFILIATE'S facility if the TRAINEE becomes the subject of a suspension, exclusion, debarment, or sanction under any Federal or state health care program or government licensing agency, is charged or convicted of a criminal offense related to health care, or becomes listed by a federal agency as debarred, excluded or otherwise ineligible for federal program participation.

This Agreement is not intended and shall not be deemed or construed to create a relationship of agent, employee, partner, or joint venture between the parties, but rather as an Agreement by and between independent contractors. Unless it is otherwise expressly provided herein, none of the parties shall have any authority to make statements, representations, or commitments of any kind on behalf of the other, or to use the name of the other party in any publications or advertisements, except with the prior written consent of the other.

SCHOOL shall provide AFFILIATE with documentation of training of the TRAINEE on the Occupational Safety and Health Administration ("OSHA") regulations (including blood-borne pathogens), Universal Precautions as defined by the Center for Disease Control and Prevention, and American Heart Association CPR certification (or other basic life support training as approved by AFFILIATE).

SCHOOL shall receive and provide AFFILIATE with documentation of training of the TRAINEE on the Health Information Portability and Accountability Act, and its implementing regulations ("HIPAA") and patient privacy standards; provided, however, that AFFILIATE may provide and document additional training from AFFILIATE on AFFILIATE's HIPAA and patient privacy policies. The parties agree that the TRAINEE and SCHOOL faculty members shall be considered part of AFFILIATE's workforce solely for HIPAA purposes. TRAINEE shall sign a Confidentiality Agreement, a form of which is attached to this Agreement and incorporated herein as Addendum IV-A. SCHOOL shall ensure that the TRAINEE participates in the preparation and maintenance of medical records in accordance with AFFILIATE's policies, and accesses, uses and discloses protected health information of AFFILIATE only as permitted under AFFILIATE's HIPAA and patient privacy policies, as such are amended from time to time. The restrictions on access, use and disclosure of health information shall survive termination of this Agreement.

SCHOOL shall ensure that TRAINEE provides AFFILIATE with evidence of health status and routine medical tests and immunizations as are required for AFFILIATE employees, if required also for the TRAINEE, and complies with AFFILIATE's policies and procedures regarding physician examinations and immunizations.

ADDENDUM IV-A
CONFIDENTIALITY AGREEMENT

The undersigned, _____ ("TRAINEE"), acknowledges that The Regents of the University of California, a Constitutional corporation, on behalf of the University of California, Irvine, SCHOOL OF MEDICINE ("SCHOOL"), and St. Joseph Hospital of Orange ("AFFILIATE"), have entered into an Affiliation Agreement ("Agreement") regarding the SCHOOL's GYNECOLOGY ONCOLOGY Program ("Program"). As a condition of TRAINEE's participation in the Program, TRAINEE acknowledges and agrees that he/she is required to participate in training on the Health Information Portability and Accountability Act, and its implementing regulations ("HIPAA") and all other applicable federal, state and local patient privacy standards, as provided by SCHOOL and/or AFFILIATE. TRAINEE further acknowledges and agrees that he/she is acting as a member of AFFILIATE's workforce for HIPAA purposes and will at all times while participating in the Program comply with HIPAA and all other applicable federal, state and local patient privacy standards, including the preparation and maintenance of medical records in accordance with AFFILIATE's policies, and the access, use and disclosure of protected health information of AFFILIATE only as permitted under AFFILIATE's HIPAA and patient privacy policies, as such are amended from time to time. The restrictions on access, use and disclosure of health information set forth herein shall survive termination of the Agreement and TRAINEE's participation in the Program.

TRAINEE:

_____

Printed Name: _____

Date: _____

Form **W-9**
(Rev. November 2005)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give form to the requester. Do not send to the IRS.

Print or type
See Specific Instructions on page 2.

Name (as shown on your income tax return)

Business name, if different from above

Check appropriate box: ☐ Individual/ Sole proprietor ☐ Corporation ☐ Partnership ☐ Other ▶ ☐ Exempt from backup withholding

Address (number, street, and apt. or suite no.) | Requester's name and address (optional)

City, state, and ZIP code

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
___ - ___ - ____

or

Employer identification number
__ - _____

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign Here Signature of U.S. person ▶ Date ▶

Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

In 3 above, if applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes, you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or
- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,